

apply to the appropriate RUS Area Director by submitting:

(a) A board resolution that: (1) Requests approval of the prepayment of the borrower's outstanding RUS Notes, and (2) states the intent of the borrower to comply with all eligibility criteria set forth in §1786.54 of this subpart.

(b) A list of all RUS Notes together with the outstanding amount on such notes.

(c) Such additional information as the Administrator shall request.

§ 1786.56 Approval of applications.

The applications will ordinarily be reviewed and, if satisfactory, approved, and closing schedule based on the order in which executed prepayment agreements are received. The Administrator may limit the number of applications approved and closings scheduled from time to time taking into account, among other matters, the financial interests and administrative considerations of the Government.

§ 1786.57 Prepayment agreement.

Upon approving an application for prepayment under this subpart, the Administrator shall notify the borrower and deliver to the borrower for its execution a prepayment agreement which shall set forth and provide:

(a) The RUS Notes to be prepaid and when the Discounted Present Value will be calculated.

(b) The place and conditions for closing.

(c) Agreement that the unadvanced balance of RUS Notes shall be rescinded.

(d) Agreement that the borrower, or its successors or assigns, shall pay to the Government, as a condition of receiving additional loans or loan guarantees pursuant to Titles I, II and III of the Act, an amount equal to the aggregate of the difference with respect to each of the RUS Notes between the amount outstanding on the RUS Note and the Discounted Present Value of the RUS Note upon prepayment with interest accruing quarterly; the interest rates shall be the rates provided in the respective RUS Notes.

(e) Assurances that the borrower will meet its obligations to any power supplier financed pursuant to the Act.

(f) Such other terms and conditions as the Administrator deems appropriate.

§ 1786.58 Security.

If, after prepayment of RUS Notes, the Government should continue to hold liens on the borrower's property that secure loans made or guaranteed pursuant to the Act, the Administrator of RUS or the Governor of the Rural Telephone Bank, as the case may be, will consider request for the accommodation of such liens for the purpose of providing security for loans the proceeds of which were used to prepay RUS Notes. Such lien accommodations shall be limited in amount to the Discounted Present Value of the RUS Notes plus such costs, as the Administrator shall determine to be reasonable, incurred by the borrower in obtaining such loans.

§ 1786.59 Loan fund audit.

Within 6 months of closing RUS shall have the right to audit transactions involving the RUS construction fund established and maintained by the borrower pursuant to the terms of the RUS Loan Agreement and to inspect all books, records, accounts and other documents and papers of the borrower. Should RUS determine that the borrower has made disbursements of funds advanced pursuant to RUS Notes which do not comply with the requirements of the RUS Loan Agreement, the borrower shall be required to pay to the Government an amount equal to the difference between the amount which the borrower prepaid on such RUS Notes evidencing RUS loan funds which were improperly disbursed and the amount which the borrower would otherwise have been required to return to the Government as a result of non-compliance if the borrower had not prepaid such RUS Notes. (See 7 CFR part 1721)

§ 1786.60 Closing.

(a) The borrower shall be responsible for obtaining all approvals necessary to consummate the transaction as required by the prepayment agreement

including such approvals as may be required by regulatory bodies and other lenders.

(b) The RUS Notes shall be prepaid at a closing to be held in accordance with the prepayment agreement; *Provided, however,* That no closing may be scheduled for after September 30, 1987. At closing, a borrower shall prepay the RUS Notes by paying to the Government an amount equal to the Discounted Present Value of the RUS Notes. The closing shall otherwise be conducted as prescribed in the prepayment agreement.

§ 1786.61 Other prepayments.

RUS loan documentation generally permits borrowers to prepay RUS Notes by paying the outstanding balance due thereon. Nothing in this subpart shall prohibit any borrower from prepaying its outstanding RUS Notes in accordance with the terms thereof. The provisions of this subpart shall not be applicable to such prepayment.

§§ 1786.62–1786.74 [Reserved]

Subpart D—RUS Privatization Demonstration Prepayment Program for the State of Alaska

AUTHORITY: 7 U.S.C. 901–950b; Pub. L. 99–591, Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

SOURCE: 52 FR 2395, Jan. 22, 1987, unless otherwise noted. Redesignated at 55 FR 49250, Nov. 27, 1990.

§ 1786.75 Purpose.

This subpart contains the general regulations of the Rural Utilities Service (RUS) for implementing section 311 of the RE Act which, in certain circumstances, permits loans made by the Federal Financing Bank (FFB) and guaranteed by the Administrator of RUS to be prepaid by RUS Alaska borrowers using private capital with a 90 percent guarantee.

§ 1786.76 Policy.

It is RUS policy to carry out this privatization demonstration program in a manner which will minimize the loan guarantee exposure to RUS and the administrative burden on RUS.

§ 1786.77 Definitions.

For the purpose of this subpart:

Administrator means the Administrator of RUS.

Discounted Present Value shall have the meaning specified in § 1786.82(a).

Existing Loan Guarantee means a guarantee of payment issued by RUS to FFB pursuant to the RE Act.

Fees means any fees, costs or charges, incurred in connection with obtaining the Refund Loan used to make the prepayment including without limitation, accounting fees, filing fees, legal fees, printing costs, recording fees, trustee fees, overheads of the borrower, underwriting fees, capital stock purchases, or other equity investment requirements of the Private Lender.

FFB means the Federal Financing Bank, an instrumentality and wholly-owned corporation of the United States.

FFB Loan means one or more advances made by FFB on a FFB Note.

FFB Note means a promissory note executed in favor of the FFB by a borrower and guaranteed by RUS pursuant to section 306 of the RE Act (7 U.S.C. 936).

Guarantee shall have the meaning specified in § 1786.79.

Internally Generated Funds means money belonging to the borrower other than: (1) Proceeds of loans made or guaranteed under the RE Act or (2) funds on deposit in the cash construction trustee account maintained pursuant to the terms of the RUS loan agreement;

Loan Guarantee Agreement means the written contract by and among the Private Lender, the borrower and the Administrator setting forth the terms and conditions of a Guarantee issued pursuant to the provisions of this subpart.

Mortgage means the mortgage and security agreements by and among the borrower and RUS, as from time to time supplemented, amended and restated.

Private Lender shall have the meaning set forth in § 1786.80(b).

RE Act means the Rural Electrification Act of 1936 (7 U.S.C. 901–950b), as amended.

REA means the Rural Electrification Administration formerly an agency of